

## Message Text

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ORIGIN INT-05

INFO OCT-01 DODE-00 IO-10 EA-07 L-03 TRSE-00 H-02 CIAE-00

INR-07 NSAE-00 SP-02 SS-15 SSO-00 NSC-05 NSCE-00 PA-01

PRS-01 USIE-00 INRE-00 PM-04 ISO-00 /063 R

DRAFTED BY INT/DOTA/SSANDER:BS

APPROVED BY INT/DOTA:ERICE

INT/SOL/CHAPMAN

ISA ELSTER

OMSN DE GRAFFENREID

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O 221500Z OCT 75

FM SECSTATE WASHDC

TO CINCPACREP GUAM

C O N F I D E N T I A L STATE 250980

E.O. 11652: N/A

TAGS: PGOV, GQ

SUBJECT: MICRONESIAN SURTAX

DOTA NO. 077-MS

PASS TO DOTA FRED ZEDER THURSDAY, OCT. 23, 1975 (GUAM TIME)  
ON CONTINENTAL FLIGHT NO. 642 FROM SAIPAN TO PONAPE WHICH  
ARRIVES GUAM 0855 HOURS.

MESSAGE;

BACKGROUND:

ON MARCH 5, 1974 THE HIGH COMMISSIONER SIGNED PUBLIC  
LAW 4C-2 WHICH ESTABLISHED THE WAGE, SALARY AND GROSS  
RECEIPTS TAX FOR MICRONESIA. THIS WAS A 3 PERCENT LEVY  
WITH CERTAIN DEDUCTIONS--MOST NOTABLY A DEDUCTION FOR  
DEPENDENTS. THE TAX THUS HAS LITTLE EFFECT ON LARGE  
FAMILIES AND BY AND LARGE DOES NOT TOUCH THOSE LIVING AT  
A SUBSISTANCE LEVEL SINCE THEY DO NOT HAVE WAGES,

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SALARIES, NOR GROSS RECEIPTS. THE TAX DOES APPLY TO THE

UNITED STATES MISSILE RANGE ON KWAJALEIN AND TO OTHER U.S. EMPLOYEES THROUGHOUT THE TRUST TERRITORY. BEFORE THE LEGISLATION WAS SIGNED, THE DEPARTMENT OF DEFENSE WAS CONSULTED. IT APPARENTLY AGREED TO THE 3 PERCENT LEVY BUT DOD CONTENDS THAT IT ORIGINALLY AGREED TO THE TAX ON THE CONDITION THAT 3 PERCENT WOULD BE THE LIMIT.

FORM DS 322A(OCR)

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PUBLIC LAW 6-52:

PUBLIC LAW 6-52 WAS SIGNED INTO LAW ON APRIL 18, 1975 BY ACTING HIGH COMMISSIONER PETER T. COLEMAN AFTER CONSULTATION WITH THE OFFICE OF TERRITORIAL AFFAIRS. THE LAW BECOMES EFFECTIVE JANUARY 1, 1976 AND WOULD (1) REDUCE THE TRUST TERRITORY TAX ON WAGES AND SALARIES TO 2 PERCENT, (2) PROVIDE AN AUTOMATIC 1 PERCENT TAX ON WAGES AND SALARIES FOR EACH DISTRICT AND (3) GIVE AUTHORITY TO THE DISTRICT LEGISLATURES TO ESTABLISH A DISTRICT TAX ON WAGES, SALARIES, AND GROSS REVENUES OF UP TO 1 PERCENT. THE WHOLE TAX PACKAGE ADDS UP TO 4 PERCENT. THE MAIN IMPETUS FOR ENACTMENT OF THE LEGISLATION WAS THE DESIRE ON THE PART OF THE CONGRESS OF MICRONESIA TO SATISFY THE MARSHALLS DEMAND FOR 50 PERCENT REVENUE SHARING. UPON ENACTMENT OF THE BILL, THE DEPARTMENT OF DEFENSE IMMEDIATELY REQUESTED VETO OF THE LEGISLATION. IT WAS, HOWEVER, DECIDED THAT THE LEGISLATION SHOULD BE APPROVED IN ORDER THAT MICRONESIANS COULD TAX MICRONESIANS, BUT THAT A SECRETARIAL ORDER WOULD BE ISSUED TO EXEMPT TAXATION OF U.S. ACTIVITIES AND EMPLOYEES OF U.S. ACTIVITIES (THIS EXEMPTION WOULD NOT INCLUDE THE TRUST TERRITORY GOVERNMENT). THE SECRETARIAL ORDER WAS READY TO ISSUE IN THE SPRING OF 1975 BUT WAS HELD UP DUE TO POLITICAL CONSIDERATIONS. WE LATER ASSURED THE DEPARTMENT OF DEFENSE THAT THE ORDER WOULD BE ISSUED BY OCT. 15 BARRING FURTHER POLITICAL CONSIDERATIONS.

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RECENT MEETING WITH DOD:

AT A MEETING OCT. 9 WITH REPRESENTATIVES FROM SEVERAL BRANCHES OF DOD PRESENT, WE DISCUSSED WHAT APPEARED TO BE A RATHER CONCILIATORY LETTER FROM THE MARSHALLS LEADERSHIP REGARDING IMPOSITION BY THE NITIJELA OF A 1 PERCENT TAX. IT WAS CONSENSUS OF THE GROUP THAT YOU SHOULD ATTEMPT TO PERSUADE THE NITIJELA

TO AMEND ITS SURTAX LEGISLATION SO AS TO EXEMPT U.S. AND THIRD COUNTRY EMPLOYEES OF U.S. AGENCIES, INSTRUMENTALITIES AND CONTRACTORS LOCATED ON KWAJALEIN. THIS WOULD OBTAIN ISSUANCE OF THE SECRETARIAL ORDER. SINCE GLOBAL ASSOCIATES DOES NOT REIMBURSE MICRONESIAN

THE NITIJELA AMEND ITS BILL, RATHER THAN ISSUING A SECRETARIAL ORDER, YOU SHOULD DO THE FOLLOWING THINGS:

1. MEET WITH THE MARSHALLS AND NITIJELA LEADERSHIP IN A SINGLE MEETING IN ORDER TO OUTLINE THE USG POSITION.
2. EXPLAIN THAT THE USG HAS READY FOR ISSUE A SECRETARIAL ORDER WHICH WOULD EXEMPT BOTH U.S. AND MICRONESIAN EMPLOYEES OF U.S. AGENCIES, INSTRUMENTALITIES, AND CONTRACTORS ON KWAJALEIN FROM THE DISTRICT SURTAX.
3. TELL THEM THAT WE WILL NOT ISSUE THE SECRETARIAL ORDER IF THE NITIJELA AMENDS ITS SURTAX LEGISLATION SO AS TO TAX ONLY MICRONESIAN EMPLOYEES.
4. THE DEADLINE FOR SUCH NITIJELA ACTION IS DECEMBER 1, 1975. THE CURRENT DRAFT OF THE SECRETARIAL ORDER WOULD EXEMPT NOT ONLY UNITED STATES EMPLOYEES BUT ALSO MICRONESIAN EMPLOYEES FROM THE TAX.
5. THE FOLLOWING IS THE PROPOSED TEXT OF THE AMENDMENT TO ITS SURTAX LAW WHICH THE NITIJELA MUST ENACT IF IT WISHES TO ACCEPT OUR OFFER OF COMPROMISE ALLOWING THEM TO TAX MICRONESIAN EMPLOYEES OF GLOBAL ASSOCIATES AND UNITED STATES AGENCIES AND INSTRUMENTALITIES:

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SECTION 4.(A). NOTWITHSTANDING THE PROVISIONS OF THIS ACT, NO SURTAX SHALL BE IMPOSED UNDER SECTION 1 OF THIS ACT UPON UNITED STATES AGENCIES, INSTRUMENTALITIES, CONTRACTORS AND THEIR RESPECTIVE NON-MICRONESIAN CITIZEN EMPLOYEES WHICH, IN AGGREGATE WITH THE TAXES AUTHORIZED BY TRUST TERRITORY OF THE PACIFIC ISLANDS PUBLIC LAW 4C-2 AS AMENDED BY PUBLIC LA' 6-52, EXCEEDS THE TAX, FEE, REVENUE, DUTY, TARIFF, IMPOST, CHARGE OR COST OF ANY KIND IMPOSED BY TRUST TERRITORY OF THE PACIFIC ISLANDS PUBLIC LAW 4C-2 AS AMENDED PRIOR TO 1975 (77 TTC, CHAPTER 11).

PROVIDED FOR IN SUBSECTION (A) OF THIS  
SECTION SHALL NOT BE APPLICABLE TO ACTIVITIES  
CONDUCTED EXCLUSIVELY FOR OR ON BEHALF OF THE  
TRUST TERRITORY OF THE PACIFIC ISLANDS, BY (1)  
ITS AGENCIES, INSTRUMENTALITIES, CONTRACTORS

AND THEIR RESPECTIVE EMPLOYEES OR (2) BY UNITED  
STATES AGENCIES, INSTRUMENTALITIES, CONTRACTORS  
AND THEIR RESPECTIVE EMPLOYEES.

BEFORE GOING TO THE MARSHALLS YOU SHOULD HAVE SOMEONE  
IN THE HICOM'S OFFICE TYPE AND REPRODUCE A NUMBER OF  
COPIES OF THIS PROPOSED SECTION 4 LANGUAGE FOR  
DISTRIBUTION TO THE MARSHALLESE LEADERSHIP DURING YOUR  
MEETING IN THE MARSHALLS.

6. AT YOUR DISCRETION YOU MAY WANT TO STATE THAT  
THE CURRENT DRAFT OF THE SECRETARIAL ORDER WOULD EXEMPT  
BOTH U.S. AND MICRONESIAN EMPLOYEES FROM THE TAX. THE  
UNITED STATES WILL NOT ISSUE THE CURRENT DRAFT NOR ANY  
OTHER DRAFT SECRETARIAL ORDER, IF THE NITIGELA ENACTS  
THE PROPOSED AMENDMENT.  
RICE SENDS.

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## Message Attributes

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